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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,607	03/01/2004	Jonathan S. Stinson	81582A	9582

7590 05/31/2005

KRIEGSMAN & KRIEGSMAN  
665 Franklin Street  
Framingham, MA 01702

EXAMINER
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COZART, JERMIE E

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/790,607

Applicant(s)

STINSON, JONATHAN S.

Examiner

Jermie Cozart

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,7-15 and 17-44 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,17-22,27,32,33 and 35-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23 and 29 is/are rejected.
- 7) ☒ Claim(s) 24-26, 28, 30, 31, and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/1/04 &amp; 12/3/04</u> | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election of Species A in the reply filed on 4/13/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solovay (5,843,161) in view of Thompson et al. (5,957,974).

Solovay discloses compressing a self-expandable stent (12) over an inner catheter (30). Solovay also discloses that while the self-expandable stent (12) is in a compressed state, a braided tube (14) is positioned around the inner catheter (30) and self-expandable stent (12), wherein the braided tube is dimensioned to maintain the self-expandable stent in the compressed state.

Solovay, however, does not disclose positioning an outer catheter tube around the braided tube, the outer tube being adapted for axial movement relative to the inner catheter.

Thompson discloses an inner catheter tube (26) and an outer catheter tube (20) positioned around the braided tube (40), wherein the outer tube (20) is adapted for axial movement relative to the inner catheter (26). This catheter arrangement allows to the stent graft to be properly aligned as it progressively radially self-expands toward an intimate contact with tissue at the treatment site. *See column 6, line 34 – column 7, line 2, and figure 1 for further clarification.*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to substitute the catheter deployment system of Solovay with the inner and outer catheter tubes, in light of the teachings of Thompson, in order to be properly align the stent as it progressively radially self-expands toward an intimate contact with tissue at the treatment site.

#### ***Allowable Subject Matter***

4. Claims 24-26, 28, 30, 31, and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

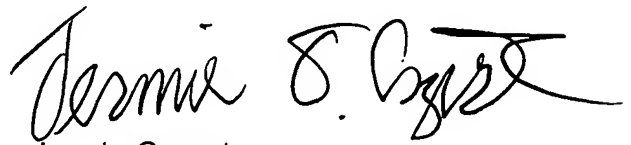
#### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

Art Unit: 3726

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jermie Cozart  
Examiner  
Art Unit 3726